

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE  
HELD ON WEDNESDAY, 18 MARCH 2020**

**COUNCILLORS**

**PRESENT** (Chair) Mahmut Aksanoglu, Derek Levy and Maria Alexandrou

**ABSENT**

**OFFICERS:** Charlotte Palmer (Senior Licensing Enforcement Officer), Heena Kanani (Principal Trading Standards Officer), Ann Bowes (Senior Fair Trading Officer), Natasha Hausdorff (Junior Counsel of 6 Pump Court acting as legal adviser), Jane Creer (Democratic Services)

**Also Attending:** 2 representatives and Counsel on behalf of Sarge Off Licence  
2 representatives and an interpreter on behalf of Carpathina Ltd  
2 representatives on behalf of Polonezz

**513**

**WELCOME AND APOLOGIES FOR ABSENCE**

Councillor Aksanoglu as Chair welcomed all those present and explained the order of the meeting.

**514**

**DECLARATION OF INTERESTS**

NOTED there were no declarations of interest in respect of any item on the agenda.

**515**

**ORDER OF AGENDA**

AGREED that the order of the agenda be amended. The minutes follow the order of the meeting.

**516**

**MAXI WINE CENTRE, 495 HERTFORD ROAD, ENFIELD EN3 5XH  
(REPORT NO. 243)**

NOTED that consideration of the application had been adjourned due to notification of coronavirus symptoms and subsequent need for self isolation by the licence holder.

**517**

**POLONEZZ, 14 GREEN LANES, LONDON, N13 6JR (REPORT NO. 246)**

## LICENSING SUB-COMMITTEE - 18.3.2020

RECEIVED the application made by Trading Standards for a review of the Premises Licence (LN/201401122) held by Polonez Limited at the premises known as and situated at Polonezz, 14 Green Lanes, London, N13 6JR.

NOTED

1. The introduction by Charlotte Palmer, Senior Licensing Enforcement Officer, including:
  - a. This was a review of the licence of Polonezz. The licence currently permitted off-sales of alcohol from 09:00 to 20:00 Monday to Saturday, and 11:00 to 19:00 Sunday. The premises licence holder was Polonez Limited, and the Designated Premises Supervisor (DPS) was Izabella Kuziola.
  - b. On 24 January 2020, Enfield Council's Trading Standards submitted a review application in relation to the prevention of crime and disorder licensing objective, seeking revocation of the premises licence in its entirety.
  - c. Smuggled goods had been found on the premises for a second time ie. non-duty paid cigarettes.
  - d. The full review application was set out in Annex 1 of the officers' report.
  - e. There were no other representations in respect of this review application.
  - f. There had been no response from the premises licence holder to date.
  - g. If the Licensing Sub-Committee (LSC) was minded not to revoke the licence, Trading Standards asked that the licence be suspended until full compliance with the licence conditions had been demonstrated and a vary DPS application had been received.
  - h. At the hearing, Trading Standards were represented by Heena Kanani, Principal Trading Standards Officer, and Polonez Limited were represented by two Directors of the company.
  
2. The statement on behalf of Trading Standards, including:
  - a. The review application was based on the crime and disorder licensing objective; namely that non-duty paid tobacco and alcohol were found on the premises.
  - b. On 29 October 2019, officers from Trading Standards and Licensing Enforcement, the Police Licensing Officer, and a dog handler and dogs from Wagtail International carried out a day of unannounced visits to shops in LB Enfield, including a visit to Polonezz. At the time of the visit there was one member of staff on the premises: Monika Bugalska. The premises was searched and a total of 74 packets of non-duty paid items were found and seized: a total of 1480 cigarettes, plus 51 bottles of alcohol, mainly vodka.
  - c. On 22 November 2019, Licensing officers carried out a licence inspection. A number of conditions were not in compliance, for example the CCTV was not working and no signs were displayed – drinking control area. A notice asking that the conditions be brought into compliance within seven days was issued to Monika Bugalska. The named DPS was not present at the time of either visit.

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- d. On 11 February 2020, a Senior Licensing Enforcement Officer re-visited the premises. The CCTV was not operational, and it was advised this was due to a problem with rats. A 'Designated Public Place Order' poster needed to be displayed at the exit. The officer was also shown a machine via which staff or customers could scan the bar code of an item to enable printing of a label with the ingredient printed in English. The inspection report was signed, as set out in Appendix 5 of the report.
- e. On 27 February 2020, Out of Hours Licensing Enforcement Officers visited the premises. The time on the CCTV monitor was fast, and staff were unable to access playback and unable to check how long footage was being stored for. The inspection report was set out in Appendix 6.
- f. On 12 December 2019, in a PACE interview, it was advised that the responsibility for ordering goods lay with the manager Monika Bugalska, and that the business did not sell tobacco. The renewal fee issue would be checked. The tobacco on the premises was advised as private, and obtained from delivery guys and kept in the shop for the staff members who smoked. It was first claimed the delivery guys left the tobacco but later stated it was paid for. Officers questioned why after a previous warning that permission was given to staff to accept goods. It was advised that one of the directors went to the Palmers Green shop once a week and the other more often and that they respectively smoked one and two packets of cigarettes per day. It was advised that the non-duty paid alcohol was for a forthcoming staff Christmas party for 150 people, and the suppliers could not be identified.
- g. On 26 January 2018, there had been a previous seizure from the premises of 94 packets of non-duty paid cigarettes. A minor variation licence was issued with additional conditions in May 2018.
- h. Trading Standards were of the opinion that given the quantities seized, the repeated offending, and the lack of diligence at the premises it was appropriate to recommend revocation of the premises licence.
- i. The Secretary of State guidance took smuggled tobacco very seriously, and the undermining of the prevention of crime and disorder licensing objective. Licence revocation should be seriously considered, even in the first instance. It was recommended that this licence should be revoked in entirety, given the large volume of cigarettes and alcohol that were in plastic bags behind the counter. Trading Standards had a lack of confidence in the explanations offered by those running the business.
- j. If the LSC was minded not to revoke, then it was asked for suspension until there was full compliance with the licence conditions, that the DPS had demonstrated understanding and the intention to fully supervise, or that a vary DPS application was submitted. There were no recommendations for amendments to conditions as they were already amended and were the most appropriate, and they were not adhered to.

### 3. Questions were responded to, including:

- a. It was confirmed that the company was the licence holder. The Directors were representing the company. Monika Bugalska was a manager, not a

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director. It was not known if she was a personal licence holder. She was not the DPS.

b. The information given to officers was confirmed as being that the Directors had three stores, and that the Palmers Green store had five staff. The other stores were in Croydon and Ilford. At the rates advised, it was estimated it would take three to six months for the Directors to consume the 74 packets of cigarettes found at Palmers Green.

4. The statement on behalf of the licence holder, including:

a. Apologies were offered for councillors' and officers' time taken up with this case, which should not have been necessary.

b. Alcohol and cigarettes were found at the premises in 2018 and the Directors had no idea they were there. At the time they had several shops across London: two had since been sold, but they still had three shops plus a bakery. The person responsible in 2018 was asked to leave the company. The Directors were not involved in the day to day ordering, but concentrated on accounts and transportation respectively. It was acknowledged they may not have taken the first case seriously enough, but a staff member was laid off.

c. The occasion in October 2019 was their responsibility as they gave the green light for storing those items in their premises. They were very flexible around the cigarettes and alcohol. The cigarettes were brought by one of the delivery guys who said he had them available, in the same way as a friend coming back from a holiday in Spain for example, and he did take payment for them. Similarly, with the bottles of alcohol, there had been a party coming up for the employees of the Palmers Green shop (5), Forest Gate shop (8), Croydon shop (8) and the bakery (35) and the company's friends, plus partners. There was a large number of bottles, but not a lot of types of alcohol.

d. Since October, it had been realised this was a very serious thing. Since then they had introduced systems to close the previous behaviours. The flexibility with the delivery guys was stopped, and there was no keeping of such products at the shop premises. Those issues would not be happening any more. Members of staff had been asked not to keep more than one packet of cigarettes on them during working hours.

e. There had not been any problems on their other premises in relation to sale of alcohol or tobacco. Since October there had been more inspection visits and nothing had been found. In Palmers Green the alcohol and cigarettes were not hidden: the cigarettes were in a drawer or behind the counter, the alcohol was at the back of the premises next to the door.

f. There had been a problem with the CCTV, but that was now resolved. There had been a rat problem from the flats above, which they had fought for over three months and deployed pest control companies. They had finally shut the shop for three days and had now got rid of the problem. The CCTV cables had been chewed by the rats in between the ceilings, which had been taken down and the cables replaced.

g. There were meetings once a week now, in respect of alcohol in particular. Cigarettes were not sold in any of their shops. Izabella Kuziola went to all the premises to provide refresher training once a month.

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h. It had not been realised that the actions could create such a problem, or that the law was being broken. It had not been appreciated that this point could be reached, and these penalties could be faced, including review of the licence. The issues had happened and they took full responsibility. Now the situations were not happening and it would remain this way.

5. Questions were responded by the Polonez Limited Directors, including:

a. In response to Members' queries regarding numbers of staff at the shop at all times, it was advised that this would depend on the day: there would sometimes be three staff on a shift, sometimes two. Staff from the Palmers Green and Forest Gate shops supported each other with staffing, depending on need.

b. The claim that it was not known they were breaking the law was questioned. With respect to the cigarettes, it was advised that buying them had been seen simply akin to buying from a friend who had been on holiday abroad and brought back cigarettes for friends to buy. It was acknowledged this may sound silly, but at that point they were very flexible about it. The amounts might seem high, but the Directors could easily smoke three packs per day. The alcohol was always bought properly, with invoices. Cigarettes had never been sold in the shops: they were purely for personal use. The amount of alcohol sold at the Palmers Green shop was minor: the business was based on groceries with shoppers maybe adding a few cans of beer or a bottle of vodka with other purchases. The issues had not been recognised as serious.

c. In response to further queries as to why after previous history it was not recognised this behaviour was wrong, it was advised the 2018 incident was not seen as too serious. There had been a meeting, and the person responsible had been laid off. After that it was considered the problem was over. The 2019 incident was considered a one-off, but it was accepted that it was their mistake. From now on they were not even allowing any parcels to be stored at their premises. Staff received regular monthly refresher training reminders and compliance was checked, with the Directors being involved in shop visits and attending premises more frequently. They had also complied with the requirement to remove all medicines from shelves at the Palmers Green shop. It had taken several months to solve the issues with rats chewing the CCTV cables: this could be backed up with photo evidence. The posters were now displayed correctly. Training, in particular for new staff around alcohol sales, was being done. They had learned from previous mistakes.

d. In response to queries regarding the amount of alcohol found at the Palmers Green location, it was advised that it was the most convenient dropping point for it to be left.

e. In response to queries regarding staff members, it was confirmed that Monika Bugalska was not a director or a personal licence holder, but just an employee who had responsibility for ordering stock. She was still employed by the company at the Palmers Green shop, and ordered stock for the shops. The cigarettes and alcohol found in October were not shop stock, and it was a mistake that they were left on the premises. Monika had been present when

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the premises were visited. The DPS, Izabella Kuziola was confirmed as being fully trained and that she held a personal alcohol licence, and was able to pass on training to others. The overall responsibility for the licence was with the directors of the company.

f. In response to suggestions that the information provided stretched credibility, it was advised that sometimes stupidity could not be explained, and actions could be hard to understand. Their shop had not sold cigarettes from the counter. The Directors considered they were 100% fit to hold a licence, though they had introduced a lot of things that should not happen. Their biggest mistake had been being too flexible. They had been scared by the recorded interview and had realised how serious the situation was. Steps had been taken in response and they were sure that the DPS was capable.

g. In response to queries why the licence was considered necessary at this shop, it was advised that the company would love to keep the licence as the business had been affected by Brexit and day to day business had dropped by 30%. They had two big shops close to each other. The alcohol sales were needed, and loss of the licence could be a killer blow. If shoppers could not add beer or vodka to their shopping they might go elsewhere for groceries. The Directors were confident that in future visits, officers would see that everything was in order.

h. In response to queries from the Trading Standards representative, it was clarified that bottles of alcohol had been stored under the counter. It was confirmed that Izabella was at the shop every Thursday and collected invoices and cash and that this was felt to be sufficient. Previously the Directors had trusted in the shop staff more, and had not supervised them correctly. They confirmed they were now aware of the condition that only the Premises Licence Holder or the DPS shall purchase alcohol and / or tobacco stock, and confirmed that Monika was in charge of ordering of grocery goods. She was due to gain a personal licence, though was not currently a licence holder. Two other staff members would also become personal licence holders, to ensure that all shifts were covered and there would always be a licence holder present at the premises.

6. The summary statement by Trading Standards, highlighting that this was not the first time that smuggled goods had been found on the premises, and that given the large amount seized, the recommendation remained that the licence be revoked.

7. The summary statement by Charlotte Palmer, Senior Licensing Enforcement Officer, that having heard all the representations it was for the LSC to consider the steps appropriate in support of the licensing objectives, and highlighting the relevant policy and guidance, in particular s.11.27 and s.11.28.

RESOLVED that

1. In accordance with the principles of Section 100(a) of the Local Government Act 1972 to exclude the press and public from the meeting for

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this item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A to the Act.

The Panel retired, with the legal representative and committee administrator, to consider the application further and then the meeting reconvened in public.

2. The Chairman made the following statement:

“Having read and listened attentively to the written and oral representations, the Licensing Sub-Committee has resolved that the appropriate step to be taken to support the promotion of the licensing objectives is to revoke the licence of Polonez Limited at the premises known as and situated at Polonezz, 14 Green Lanes, London, N13 6JR.

The Licensing Sub-Committee believes in particular that the storage of smuggled goods (sale or storage of smuggled tobacco and alcohol) especially not for the first time merits the revocation of the licence in furtherance of the licensing objective of prevention of crime and disorder in particular.

As such, the Licensing Sub-Committee was persuaded that the Trading Standards’ application case has been made in full.”

3. The Licensing Sub-Committee resolved to revoke the licence.

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### **SARGE OFF LICENCE, 240 FORE STREET, EDMONTON N18 2QD (REPORT NO. 244)**

RECEIVED the application made by Trading Standards for a review of the Premises Licence (LN/201200255) held by Mr Rajasingam Sundaramoorthy at the premises known as and situated at Sarge Off Licence, 240 Fore Street, Edmonton, N18 2QD.

NOTED

1. The introduction by Charlotte Palmer, Senior Licensing Enforcement Officer, including:

- a. This was a review of the licence of Sarge Off Licence. The licence currently permitted off-sales of alcohol from 08:00 to 23:00 daily. The Premises Licence Holder and Designated Premises Supervisor (DPS) was Rajasingam Sundaramoorthy.
- b. On 24 January 2020, Enfield Council’s Trading Standards submitted a review application in relation to the prevention of crime and disorder licensing objective, and seeking revocation of the premises licence in its entirety.

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- c. A large amount of non-duty paid cigarettes had been found at the premises, as set out in Annex 2 of the report.
- d. There were no other representations in respect of this review application.
- e. There had been no response from the premises licence holder to date.
- f. If the Licensing Sub-Committee (LSC) was minded not to revoke the licence, Trading Standards proposed modifications to the licence conditions as set out in Annex 3, and asked that the licence be suspended until full compliance with the licence conditions had been demonstrated.
- g. At the hearing, Trading Standards were represented by Ann Bowes, Senior Fair Trading Officer, and Rajasingam Sundaramoorthy and his son were present, and also represented by Michael Rogers, Counsel, Lamb Building.

### 2. The statement on behalf of Trading Standards, including:

- a. The review application was based on the crime and disorder licensing objective; namely that non-duty paid tobacco was found on the premises.
- b. On 29 October 2019, officers from Trading Standards and Licensing Enforcement, the Police Licensing Officer, and a dog handler and dogs from Wagtail International carried out a day of unannounced visits to shops in LB Enfield, including a visit to Sarge Off Licence. The premises was searched and a large amount of non-duty paid cigarettes and tobacco were found behind the counter. The items seized were 260 packets in total (5200 sticks), plus 31 single cigarettes, and 18 packets of hand rolling tobacco.
- c. An interview under caution had been conducted, and a prosecution was ongoing. An explanation had been given that the items were for personal use and had been given as gifts from customers and had to be kept at the premises as they were not able to be kept at home.
- d. At an officer visit out of hours, Rajasingam Sundaramoorthy was not present at the premises, nor was he on 29 October 2019. There was only one member of staff at the shop: Jesi Patni.
- e. Conditions had been found in non compliance, namely Conditions 4, 5, 6, 9, 10, 11 and 12 of the licence. This led to the Licensing Authority having no confidence in Mr Sundaramoorthy to run the business within the law.
- f. He had acted quickly to rectify compliance with the conditions, and demonstrated that Conditions 4, 5, 10, 11 and 12 were rectified. An officer visit on 3 March 2020 checked outstanding licence conditions 6 and 9. The premises licence holder was the only person on the premises; which was a breach of Condition 9. He advised that his son had been there earlier but had left to get lunch. CCTV footage was shown on a mobile phone, but it only went back to 12 February instead of the required 31 days. The licence holder did not know how to check the footage via the screen in the shop.
- g. This was the first time non-duty paid goods had been found at this premises, but Trading Standards were of the opinion that given the large quantity seized, it was appropriate to recommend revocation of the premises licence. The Secretary of State guidance took smuggled tobacco very seriously, and the undermining of the prevention of crime and disorder licensing objective. Licence revocation should be seriously considered, even in the first instance.



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h. If the LSC was minded not to revoke, then it was asked for suspension until there was full compliance with the licence conditions, including the new conditions and the granting of a minor variation.

3. In response to Members' queries, it was confirmed that officers continued to recommend revocation of the licence because of the sheer quantity of non-duty paid goods found on the premises: that was a big enough offence to warrant revocation of the licence.

4. The statement on behalf of the Premises Licence Holder, including:

a. Mr Sundaramoorthy had held a personal licence since 2010 and there had been no issues with that. He had been DPS for eight years and no issues had been flagged up.

b. It appeared that on this occasion, Mr Sundaramoorthy had made a serious mistake, and he acknowledged that. He was not putting forward an excuse or reason. He acknowledged he should not have had the goods in his possession at all and he regretted what happened.

c. This was a very small family business. The size of the shop could be seen from the plan. The staff were Mr Sundaramoorthy himself, Mr Patni, and the DPS's wife and from time to time his son and his daughter, though she lived primarily abroad.

d. Mr Sundaramoorthy was disabled, having lost use of his arm years ago, and required the help of a member of staff to run the business. It was a necessity to have someone else present most of the time.

e. The family's entire livelihood depended on this business, particularly to pay for the children's university education. Revocation of the licence would mean it could not trade as a going concern. Even a suspension of the licence would probably have the same effect. Such action would be draconian on this small business.

f. Mr Sundaramoorthy had taken the visit on 29 October seriously. Since then he had made sure he kept full records of purchases, especially of alcohol and tobacco. He had shown evidence he was already complying with one of the amended conditions by keeping all receipts showing use of legitimate wholesalers.

g. At the two officer visits since 29 October, the most significant point was that there was no evidence of illicit tobacco on the premises. In respect of licence conditions, the officers flagged up issues with some, but the DPS had sought to address concerns, as listed in their additional information. In respect of Condition 4, the sign was moved and corrected. The poster required by Condition 5 was now in place. Actions to meet Conditions 10, 11 and 12 were in place. Tobacco was now suitably covered up. Mr Sundaramoorthy had immediately ordered a proper cabinet and was awaiting its delivery which was expected within a few days. In the interim, tobacco products had been removed from view. Mr Sundaramoorthy had taken concrete steps and was very keen to make sure he continued to comply in future.

h. In respect of the 3 March visit and the number of staff on the premises, Mr Sundaramoorthy's son had been there for the rest of the day, and

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arrangements were now in place that another individual would be present or that the shop may be closed for a short period of time. This was not a common condition for all premises, nor easy to comply with, but the issue had been taken seriously and would be continued.

i. A new, more sophisticated CCTV system had been installed in January and it had taken time for Mr Sundaramoorthy to get used to it, but he was now confident that images were retained for at least 31 days, all footage could be checked, and it was possible to view the time on the images.

j. It would not be reasonable or proportionate in respect of this business to revoke the licence, however it would be appropriate to add the proposed conditions. Mr Sundaramoorthy would make sure they were stringently applied, and appreciated that if they were not, he would face another LSC hearing.

k. Trading Standards had proposed additional conditions as set out in Annex 3. Mr Sundaramoorthy had made sure proposed Condition 12 and 13 were already happening. Condition 14 was more prescriptive, and Mr Sundaramoorthy had already shown he was meeting those requirements. He was also meeting Condition 15. There was no store room at this premises, but stock could be kept in a marked container. Mr Sundaramoorthy agreed to all the conditions proposed. He realised he made a serious mistake and wanted to work with Trading Standards and the LSC in the future to make sure he could continue to trade within the law.

5. Mr Sundaramoorthy and his representative responded to questions, including:

a. In response to Members' queries around the quantity of cigarettes in the premises, and the number of occasions they had been given as gifts, it was advised that they were kept in the premises because the licence holder's wife disapproved of smoking and did not want the cigarettes in the home. Mr Sundaramoorthy acknowledged these items should not have been at the shop. This was a mistake made recently and Mr Sundaramoorthy had otherwise conducted business lawfully. The cigarettes had been given as gifts on a few occasions, not one single occasion. The products had not been examined carefully at the time. They were not intended to be sold. Mr Sundaramoorthy's wife had told him they could not be kept at home. Mr Sundaramoorthy took his premises licence very seriously.

b. It was confirmed by officers that the annual licence fee had been paid.

c. In response to further queries by Members relating to promotion of the licensing objectives, it was advised that the focus of the LSC should be on the causes of concern, and consideration of what steps were proportionate, and appropriate and reasonable in relation to the circumstances. In this case, revocation would not be reasonable to this small business, where this was the first incident. The guidance covered a wide range of criminal behaviour, and though revocation should be seriously considered by the LSC, in discussion the Members were invited to consider if that would be proper in this case.

d. In response to Members' queries when the items were given to Mr Sundaramoorthy, and whether he seriously intended to smoke all those

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cigarettes, it was advised that he had been storing items at the shop for 1.5 years, after originally keeping them at home. The point he realised they should not be kept at the shop was after the inspection visit. As the cigarettes were a gift, he had not thought they were illegal.

e. In response to a question from the Chair, Mr Sundaramoorthy confirmed that he was fully aware of the conditions in his licence.

f. In response to Members' queries regarding the CCTV system, Mr Sundaramoorthy acknowledged that it was his responsibility to make sure it was fit for purpose. He had originally wanted to install two new cameras to improve the coverage, but it seemed to have taken a while to get used to. The issue had now been resolved and the CCTV was now fully functioning.

6. The summary statement on behalf of Trading Standards that, although this was the first time that smuggled goods had been found at this premises, given the large volume, the Licensing Authority felt it appropriate that the licence should be revoked.

7. The summary statement by Charlotte Palmer, Senior Licensing Enforcement Officer, that having heard all the representations it was for the LSC to consider the steps appropriate in support of the licensing objectives, and highlighting the relevant policy and guidance, in particular s.11.27 and s.11.28.

RESOLVED that

1. In accordance with the principles of Section 100(a) of the Local Government Act 1972 to exclude the press and public from the meeting for this item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A to the Act.

The Panel retired, with the legal representative and committee administrator, to consider the application further and then the meeting reconvened in public.

2. The Chairman made the following statement:

"Having read and listened attentively to the written and oral representations, the Licensing Sub-Committee has resolved that the appropriate step to be taken to support the promotion of the licensing objectives is to revoke the licence held by Mr Rajasingam Sundaramoorthy at the premises known as and situated at Sarge Off Licence, 240 Fore Street, Edmonton, N18 2QD.

The Licensing Sub-Committee takes into consideration the guidance of s.11.28 and considers this is the appropriate and proportionate course of action that is required to address the concern that the presence of smuggled goods gives rise to, in the light of the licensing objective of the prevention of crime and disorder.

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In light of guidance at s.11.27 and s.11.28 given the seriousness of the criminal activity, this course is appropriate even in circumstances where this is the first instance of the storage of smuggled goods at the premises.

The primary or principal reason for the review being called was the storage of non-duty paid tobacco products.

The breaches of conditions were incidental and secondary to the Sub-Committee's consideration of the core matter of the storage of non-duty paid goods.

As such, the Licensing Sub-Committee was persuaded that the Trading Standards' application case has been made in full."

3. The Licensing Sub-Committee resolved to revoke the licence.

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**CARPATHINA LTD, 337 BOWES ROAD, LONDON N11 1BA (REPORT NO. 245)**

RECEIVED the application made by Trading Standards for a review of the Premises Licence (LN/201700925) held by Mr Iulian Frasinescu at the premises known as and situated at Carpathina, 337 Bowes Road, London, N11 1BA.

NOTED

1. The introduction by Charlotte Palmer, Senior Licensing Enforcement Officer, including:

- a. This was a review of the licence of Carpathina Ltd. The licence currently permitted off-sales of alcohol from 11:00 to 22:00 daily. The premises licence holder and the Designated Premises Supervisor (DPS) was Iulian Frasinescu.
- b. On 24 January 2020, Enfield Council's Trading Standards submitted a review application in relation to the prevention of crime and disorder licensing objective, and seeking revocation of the premises licence in its entirety.
- c. Smuggled goods had been found on the premises for a second time ie. non-duty paid cigarettes.
- d. The full review application was set out in Annex 1 of the officers' report.
- e. There were no other representations in respect of this review application.
- f. The response from the premises licence holder was set out in Annex 2.
- g. If the Licensing Sub-Committee (LSC) was minded not to revoke the licence, Trading Standards asked that the licence be suspended until full compliance with the licence conditions had been demonstrated and a vary DPS application had been received.

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h. At the hearing, Trading Standards were represented by Heena Kanani, Principal Trading Standards Officer, and Carpathina Ltd were represented by Iulian Frasinescu, Nicoleta Gafita, and an interpreter, Gabriela Doina Basca.

2. The statement on behalf of Trading Standards, including:

- a. The review application was based on the crime and disorder licensing objective; namely that non-duty paid tobacco was found on the premises.
- b. On 29 October 2019, officers from Trading Standards and Licensing Enforcement, the Police Licensing Officer, and a dog handler and dogs from Wagtail International carried out a day of unannounced visits to shops in LB Enfield, including a visit to Carpathina Ltd. At the time of the visit there was one member of staff on the premises: Cocuta Gafita. The premises was searched and 203 packets of non-duty paid items with foreign labelling were found and seized.
- c. On 22 November 2019, Licensing officers carried out a licence inspection. A number of conditions were not in compliance: Conditions 4, 7, 8 and 12. It was requested that the conditions be brought into compliance within seven days. An inspection report was completed and signed by and issued to Ion Gherman, cashier. Neither the licence holder or DPS were present at the time of the visit.
- d. On 31 January 2020, out of hours Licensing Enforcement officers made a re-visit and met the same cashier who was working during the last inspection visit. Training records were now compliant, a refusals book was available, and one recent invoice was seen for tobacco, no more invoices on site. A request was made that a copy of last month's invoices be sent within the next seven days. The invoices were later sent, as set out in Appendix 6.
- e. Mr Frasinescu attended a formal interview, and a prosecution was ongoing.
- f. Following the seizure and interview, officers had a lack of confidence in the management of the business to operate the licence.
- g. This was not the first time that illicit goods had been found at the premises. On 7 August 2018, there had been a previous seizure from the premises of 387 packets of non-duty paid cigarettes. The explanation was that the legal requirements were not known at the time. Nicoleta Gafita signed the notice of seizure. This was the first time she was acknowledged as an employee. Nicoleta and Cocuta were related. It was claimed that the cigarettes were given to friends and were not for sale.
- h. Mr Frasinescu had not been seen in the shop, and had been out of the country at some points, and had trusted his staff.
- i. Trading Standards were of the opinion that it was appropriate to recommend revocation of the premises licence.
- j. The Secretary of State guidance took smuggled tobacco very seriously, and the undermining of the prevention of crime and disorder licensing objective. Licence revocation should be seriously considered, even in the first instance. It was recommended that this licence should be revoked in entirety.
- k. If the LSC was minded not to revoke, then it was asked for suspension until there was full compliance with the licence conditions, that the DPS had

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demonstrated full understanding, or that a vary DPS application was submitted. There were no recommendations for amendments to conditions as they were already amended in 2018 and were the most appropriate and up to date conditions.

3. The statement of Mr Frasinescu, through the interpreter, including:

- a. When the visit happened in October, he and Nicoleta were out of the country, in Romania, and were unaware of the activities at the shop.
- b. When information was given, he did retraining.
- c. The business was facing new problems at the moment, and a licence revocation on top could bring it crashing down. If possible, he asked for leeway as a revocation would be a real blow for this business in tough times, and he asked the LSC to please not revoke.

4. Mr Frasinescu, through the interpreter, responded to questions, including:

- a. In response to Members' queries about storage of illicit tobacco and why it happened again, he believed staff had agreed and had stopped doing it. They had been told what to do. He had worked with Council officers and rectified issues. It was confirmed there had been a minor variation of the licence to amend conditions and vary the plan. He had not been aware what was happening when he was not there in October 2019.
- b. In response to queries about how often he was at the premises, it was advised that would depend on the day, but normally he and Nicoleta had tried to go there and check what was going on twice a week. When they learned about what was happening, they tried to go on a more regular basis and now spent about half a day in the shop every day. In 2019 he had needed to go to Romania for dental treatment.
- c. In response to queries about trust in staff, and potential of changing the DPS, it was advised there was now a supervisor in place which was Mr Gherman, the cashier. Mr Frasinescu trusted him and wanted him to supervise. He agreed to consider a transfer application to make Ion Gherman and / or Nicoleta the DPS.
- d. In response to questions from the Trading Standards officer, Mr Frasinescu confirmed that he had delivered the training. When asked to explain what he told staff, he advised that they were not allowed to sell cigarettes unless they had been legitimately purchased, that they were not allowed to sell alcohol without proof of age, and to keep obeying the mandatory conditions of the licence. He specified the age to buy alcohol as 22 years: that he did not allow under 22's to buy alcohol. Also that if someone came into the shop who looked drunk or not in a good state they would not be allowed to be sold anything. There was regular training given, lasting 30 minutes or more, normally before he went to replenish stock. Tobacco and alcohol was only bought by himself or Nicoleta and they bought from the warehouse. There were other staff in the shop who held a personal licence: staff were hired.

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5. The summary statement on behalf of Trading Standards, that given this was not the first time that smuggled goods had been found at the premises and given the volume found, their recommendation remained that this licence be revoked.

6. The summary statement by Charlotte Palmer, Senior Licensing Enforcement Officer, that having heard all the representations, and Mr Frasinescu's written submission, it was for the LSC to consider the steps appropriate in support of the licensing objectives, and highlighting the relevant policy and guidance, in particular s.11.27 and s.11.28.

RESOLVED that

1. In accordance with the principles of Section 100(a) of the Local Government Act 1972 to exclude the press and public from the meeting for this item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A to the Act.

The Panel retired, with the legal representative and committee administrator, to consider the application further and then the meeting reconvened in public.

2. The Chairman made the following statement:

"Having read and listened attentively to the written and oral representations, the Licensing Sub-Committee has resolved that the appropriate step to be taken to support the promotion of the licensing objectives is to revoke the licence held by Mr Iulian Frasinescu at the premises known as and situated at Carpathina, 337 Bowes Road, London, N11 1BA.

The Licensing Sub-Committee takes into consideration the guidance in s.11.20, s.11.27 and s.11.28 and considers that the presence of smuggled goods for the second occasion, and significant volume, causes serious concern.

In light of the licensing objective of the prevention of crime and disorder, the Sub-Committee considers it appropriate and proportionate to revoke the licence in these circumstances and in keeping with the guidance referenced above.

The primary reason the review was called was the storage of non-duty paid tobacco products.

The breaches of conditions were purely incidental and secondary to the Sub-Committee's consideration.

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As such, the Licensing Sub-Committee was persuaded that the Trading Standards' application case has been made in full."

3. The Licensing Sub-Committee resolved to revoke the licence.

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### **MINUTES OF PREVIOUS MEETINGS**

**AGREED** the minutes of the meetings held on Wednesday 22 January 2020 and Wednesday 26 February 2020 as a correct record.